

March 2, 2009

Edward T. Rapoza
3435 Riverside Avenue
Somerset, Massachusetts 02726

Re: Tiverton Zoning Board Relief; Map 9-7, Block/Plat 25, Card/Lot 10

Dear Mr. Raposa:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on February 4, 2009 for a request for a variance from Article IV, Section 13 and Article X, Section 1 of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to manufacture and assemble mattresses and related products (the "Proposal") on property located at 34-36 Main Road, Tiverton, R.I., at Map 9-7, Block/Plat 25, Card/Lot 10 (the "Premises"), located in an General Commercial zoning district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and after taking into consideration all of the testimony at the public hearing, makes the following findings:

1. That the Premises contain approximately 19,792 square feet of land area, more or less, and which is zoned General Commercial.
2. That the Premises is presently used for a variety of retail and wholesale uses. The Proposal requires a dimensional variance for less than required parking spaces and a use variance from the Board, pursuant to Article IV, Section 13 and Article X, Section 1 of the Tiverton Zoning Ordinance.
3. That the petitioner testified that the Proposal would involve the assembly of mattresses on the Premises for sale at wholesale and retail. The assembly would not involve loud machinery or disturb the residents in the nearby area.
4. The petitioner further testified that the Proposal would not need many parking spaces but that the Zoning Ordinance required more spaces at the Premise for the use than are currently available.
5. The petitioner also testified that the Proposal would require no other relief from the Zoning Ordinance.
6. Two neighbors appeared at the public hearing to ask questions regarding noise and parking. No other concerns were raised at the public hearing on the Proposal.
7. That the Board concurred with the factual statements and opinions of the petitioner, whose information, analysis and conclusions were found credible and are made a part of the record.

Based on the foregoing, a motion was made and seconded by to approve the petitioner's application for relief. After deliberations on the petition, the Board voted unanimously to grant the application for the necessary variance, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioner.

- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioner.
- c. The unnecessary hardship, which the petitioner seeks to avoid, has not been imposed by any prior action of the petitioner and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.

As to the dimensional variance:

- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

As to the use variance:

- h. Without the issuance of this use variance, the land or structure cannot yield any beneficial use.

This petition is granted by the Board with the following stipulations and conditions:

- 1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
- 2. That the relief is limited to the plans and representations made by the petitioners to the Board. Changes to the approved plan may be made without approval of the Zoning Board of Review if needed to comply with either the building or fire codes.
- 3. This approval shall expire one year from the date of granting of such by the board unless the applicant exercises the permission granted or receives a building permit to do so and commences construction and diligently prosecutes the construction until completed. The board may, upon application thereof, for cause shown and without a public hearing, grant an extension, provided that not more than one such extension for a period of six months be granted.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

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